BEFORE THE HIGH COURT OF JUDICATURE AT BILASPUR(C.G.)

C.R.No. 104 / 05

Single Bench

PETITIONERS :- The Oriental Insurance Co. Ltd. Through its Divisional Manager , O.I.C. Ltd., Divisional Office, Opposite High Court , BILASPUR(C.G.)

P.R. No. 2229/05 Presented by Shri Narayan Singh dated 23/12/05

VERSUS

RESPONDENTS :-

1). CLAIMANT :- Misala Prasad S/ O. Mohit Ram, aged about 38 years, Caste: Kewat, R/O. Vill. Dabankara, P.O. KEWARA,P.S. Pratappur, Teh.: Surajpur, Dist.: Surguja,(C.G.).

2). OWNER: - Ajay Kumar Singh s/ o. Late R.N.Singh,aged about 30 yrs. Caste: Rajput, Vocation: Vehicle Owner , R/ O. Vill./ P.S.: JAINAGAR Teh. Surajpur , Dist. Surguja, (C.G.).

3). DRIVER :- Om Prakash @ Guddu, S/ O. Mutur Singh, Vocation : Driver, aged about 21 Years, Caste: Rajput, R/ O. Darripara, At / P.O. AMBIKAPUR, Dist. : Surguja,(C.G.)

REVISION U./ SEC. 115 OF THE CODE OF CIVIL PROCEDURE, 1908.

The Petitioners named above humbly

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक .....C.Rev.No.108/05..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	11/11/2005 Shri Vinay Harit, Sr. counsel with Shri Narayan Ku. Shrivastava, counsel for the applicant. Heard. The applicant/Insurance Company has preferred this Civil Revision under Section 115 of CPC as he is aggrieved by the order dated 15th of April 2005 passed by the IVth Addl. Motor Accident Claims Tribunal (FTC), Surajpur, Distt. Surguja in M.J.C. No. 01/2004 and by which ex-parte award in favour of respondent No.1 has been set aside and application of respondent No.2, owner of the vehicle was allowed. Learned counsel for the applicant submits that the application under Order 9 Rule 13 of CPC for setting aside ex-parte award has been allowed by learned IVth Addl. Motor Accident Claims Tribunal (FTC), Surajpur without any sufficient cause solely relying upon the statement of the applicant/owner. He further submits that though the claimant has not challenged the impugned order, but the Insurance Company is also the aggrieved party as the order, which has been set aside, absolved the Insurance Company from the liability from the payment of compensation. He further submits that the respondent No.2/owner of the vehicle remained absent even though he was informed in this regard by his advocate who has been examined as witness during proceedings of setting aside the ex-parte award and he has categorically stated the same. However learned Claims Tribunal ignoring the statement of the advocate and relying upon the statement of the claimant, has passed the impugned order. Thus, the Court below has exercised its jurisdiction illegally and with material irregularity.	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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	I have heard learned counsel for the applicant. It is not disputed that the award which has been set aside by the impugned order was in favour of the claimant and the applicant/Insurance Company is non-applicant before the Tribunal. The claimant is not aggrieved by the impugned order as he has not challenged the same by initiating any proceedings and therefore the order cannot be impugned at the instance of the insurance Company. Even otherwise the scope of interference against the order in Civil Revision is very limited and the same can be exercised only when the Sub-ordinate Court has acted in the exercise of its jurisdiction illegally or with material irregularity. However, in the present case, the Tribunal after giving opportunity to the parties to lead evidence and thereafter on the basis of the evidence available on record set aside the impugned order by imposing cost of Rs. 1,000/- and in view of the above, I am of the opinion that the owner/non-applicant has given sufficient reason for his non appearance on 20/12/2002 and the revision preferred by the applicant is devoid of merits and accordingly the revision is dismissed. **Sd/-** **Dhirendra Mishra** **Judge**	